

STATE OF VERMONT
HUMAN SERVICES BOARD

In re)	Fair Hearing No. 18,996
)	
Appeal of)	
)	

INTRODUCTION

The petitioner appeals a decision by the Department of Prevention, Assistance, Transition, and Health Access (PATH) closing her son's Dr. Dynasaur (Medicaid) benefits based on excess income.

FINDINGS OF FACT

1. The petitioner is a salesperson at a motorcycle dealership. She has health insurance available to her with her employer but it costs over \$500 per month which she says she cannot afford. The petitioner had been receiving Medicaid as a transitional program based upon her former receipt of Reach Up benefits. Her son was enrolled in the Dr. Dynasaur program.

2. The petitioner's eligibility for Medicaid was reviewed in late March of this year. At that time, the petitioner reported that her income during the past thirty days was \$4,192.09 from wages and commission.

3. PATH reviewed the petitioner's income and after giving her a \$90 standard employment expense deduction,

concluded that she had \$4,102.09 in countable income. Half of that income was allocated to her son and her income and his was each compared to half of the maximum amount (PIL) for the Medicaid program which is \$391.50. PATH concluded that the petitioner and her son were both over income for the Medicaid program until they had "spent-down" over \$9,000 each during the next six months.

4. The petitioner was notified on March 26, 2004 that her Medicaid would end on April 30, 2004.

5. The petitioner does not dispute that her income during the month of March would disqualify her and her son from receiving Medicaid benefits. Her earnings are seasonal and fluctuate greatly during the year. She expects that by mid-summer her income will be much less. Her total gross income for 2003 in the same business was less than \$16,000. She maintains that her income should be averaged over the year in order to determine her eligibility for Medicaid programs.

ORDER

The decision of PATH is reversed and the matter is remanded to PATH to determine whether the petitioner is financially eligible for Medicaid based on the methodology discussed herein.

REASONS

PATH uses a six-month "accounting period" to determine the Medicaid eligibility for persons who are not in long-term care. M352.1. That same regulation directs that income be computed, in pertinent part, as follows:

. . . Income in the month of application and future months is estimated based on the actual verified income in the month prior to the month of application unless changes have occurred or are expected to occur . . .

M352.1 (Emphasis supplied.)

Under this regulation, PATH must take into consideration changes in income that are expected to occur during the six-month accounting period. PATH did not do that in this instance. The petitioner's uncontroverted testimony is that her income will change dramatically during the six-month accounting period. The petitioner has a right under the above regulation to present information regarding the likely income she will have during the accounting period and to have that information considered in determining her eligibility. This case is remanded to PATH to take the actions required in its regulation and to recalculate the petitioner's eligibility.

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